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March 30, 2022

By: ECF
The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York 10007

Re: Janczewski v. Building Service 32BJ Health Fund, et al.
SDNY Docket No 22-CV-157 (RA)

Dear Judge Abrams,

The undersigned is counsel to the defendants, Building Service 32BJ Health Fund (“Health Fund”) and Building Service 32BJ Pension Fund (“Pension Fund”) (jointly, the “Funds”), in the above captioned matter. The purpose of this letter is to jointly request that the Court allow the Defendants to withdraw, without prejudice, their motion to dismiss, and to then stay the proceedings, to allow Plaintiff to exhaust his internal appeals.

The underlying complaint was brought pursuant to ERISA by Grzegorz Janczewski (“Plaintiff”) a beneficiary of the Funds. The complaint alleged that the Funds violated ERISA in not granting Plaintiff a Long Term Disability Benefit and continued health care coverage from the Health Fund and in not granting Plaintiff a Disability Pension from the Pension Fund.

Upon receipt of the complaint. The Funds moved for dismissal on two grounds. The Funds asserted that the claim was untimely and that Plaintiff had failed to exhaust his internal appeal rights. Upon the Funds’ receipt of Plaintiff’s responsive papers, the parties conferred and agreed

that the Plaintiff should have an opportunity to file internal appeals and thereby exhaust the internal appeal process.

The Funds have agreed to accept the appeals as timely. The granting of a stay in such circumstances has been recognized by the Courts in this District as an acceptable course of action. (See, e.g. *Wegmann v Young Adult Inst., Inc.*, 2016 US Dist LEXIS 104033 [SDNY Aug. 5, 2016], and the cases cited therein.)

The parties have executed the attached stipulation and proposed order for the Court's consideration and approval.

Respectfully submitted,

s/ Ira A. Sturm

Cc: Livius M. Ilasz (By: ECF)
Patricia DeSalvo (By: Email pdesalvoesq@gmail.com)

UNITED STATES DISTRICT COURT
SOUTHERN DISRTRICT OF NEW YORK

-----X

GRZEGORZ JANCZEWSKI,

Plaintiff,

-against-

BUILDING SERVICE 32BJ HEALTH FUND and
BUILDING SERVICE 32BJ PENSION FUND,

STIPULATION AND
PROPOSED ORDER
22-CV-157(RA)

Defendants.

-----X

WHEREAS, Grzegorz Janczewski (“Plaintiff”), brought the above captioned matter against the Building Service 32BJ Health Fund (“Health Fund”) and Building Service 32BJ Pension Fund (“Pension Fund”)(jointly the “Funds”), asserting claims concerning the denial of a Long Term Disability benefit and continued medical care from the Health Fund and the denial of a Disability Pension from the Pension Fund ; and

WHEREAS the Funds have moved for dismissal and Plaintiff has opposed dismissal; and

WHEREAS, the parties have agreed to treat any internal appeals that may be filed in connection with the issues raised in the Complaint in this matter as timely filed:

IT IS HEREBY stipulated and agreed, subject to Court approval of this stipulation:

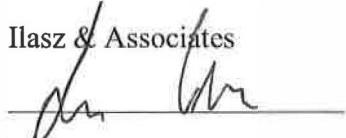
1. The Funds’ motion to dismiss (Docket Entry No. 10) is withdrawn, without prejudice.
2. Plaintiff may file internal appeals to any decisions or determinations by the Funds, which are the subjects of the Complaint on or before May 16, 2022, and the Funds will treat those appeals as timely.

3. The underlying action shall be stayed pending exhaustion of the internal appeal process.

4. Upon exhaustion of the internal appeal process, either party may request of the Court that the stay of this matter be lifted and that the case then proceed.

Dated: February 16, 2022

Ilasz & Associates



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For the reasons stated in the parties' joint letter, this case is stayed until further notice. The conference scheduled for April 8 is canceled. The Clerk of Court is respectfully directed to terminate the motion at docket number 10. The parties shall submit a status letter within one week of the exhaustion of the internal appeal process or by July 1, 2022, whichever is earlier.

SO ORDERED.



Hon. Ronnie Abrams
April 1, 2022